

MODEL ATTORNEY GENERAL'S STATEMENT UPDATE
FOR FINAL AUTHORIZATION FOR CHANGES TO THE
FEDERAL RCRA PROGRAM FROM JULY 1998
THROUGH JUNE 1999
RCRA CLUSTER IX

I hereby certify, pursuant to my authority as _____ and in accordance with Section 3006(b) of the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 USC 6901 et seq.), and 40 CFR 271 that in my opinion the laws of the State [Commonwealth] of _____ provide adequate authority to carry out the revised program set forth in the revised "Program Description" submitted by the [State Agency]. The specific authorities provided are contained in statutes or regulations lawfully adopted at the time this Statement is signed and which are in effect now [shall be fully effective by _____], as specified below. These authorities and this certification supplement [or supercede (and indicate how supercede)] the previously certified authorities described in my [or my predecessors] certification(s) of _____ (date or dates).

Please add an explanation of how the Revision Attorney General's Statement you are submitting relates to any prior Attorney General's Statements you have submitted.

I. IDENTIFICATION AND LISTING

A. State statutes and regulations contain lists of hazardous wastes which encompass all wastes controlled under the following Federal regulations as indicated in the designated Revision Checklists:

- (31) Listing of four wastes (K169-K172) generated during petroleum refining process, 40 CFR 261.32, Part 261 Appendix VII as amended August 6, 1998 [63 FR 42110], Revision Checklist 169.

Federal Authority: RCRA §3001(b).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

OO. [OPTIONAL: This is a reduced requirement.] State statutes and regulations provide for secondary materials from mineral processing to be co-processed with normal raw materials in beneficiation operations which generate Bevill exempt wastes, without changing the

exempt status of the resulting Bevill waste, provided certain conditions are met as indicated in Revision Checklists 167 E and 179.

Federal Authority: RCRA §3001; 40 CFR 261.4(b)(7) as amended May 26, 1998 (63 FR 28556) and May 11, 1999 (64 FR 25408).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

QQ. [OPTIONAL: This is a reduced requirement.] State statutes and regulations include revisions that expand the headworks exemption to include waste generated during petroleum refining process (K169-K172), as indicated in Revision Checklist 169.

Federal Authority: RCRA §§ 2002(a) and 3001, 40 CFR 261.3(a)(2)(iv)(C) as amended August 6, 1998 (63 FR 42110).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

RR. [OPTIONAL: This is a reduced requirement.] State statutes and regulations include an exemption for catalyst support media as indicated in Revision Checklist 169.

Federal Authority: RCRA §§ 2002(a) and 3001, 40 CFR 261.3(c)(2)(ii)(E), as amended August 6, 1998 (63 FR 42110).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

SS. [OPTIONAL: This is a reduced requirement.] State statutes and regulations exclude dredged material from regulation as a hazardous waste provided the material is subject to the requirements of a permit issued under §404 of the Federal Water Pollution Control Act or §103 of the Marine Protection, Research, and Sanctuaries Act as indicated in Revision Checklist 175.

Federal Authority: RCRA §§ 1006(b), 2002(a) and 3001; 40 CFR 261.4(g), as amended November 30, 1998 (63 FR 65874).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney

TT. [OPTIONAL: This is a reduced requirement.] State statutes and regulations exempt, from regulation as a hazardous waste, landfill leachate and gas condensate derived from previously disposed petroleum refinery wastes (K169-K172), as indicated in Revision Checklist 178.

Federal Authority: RCRA §§ 2002(a) and 3001(a), (b), and (e)(2), 3004(g) and (m), 40 CFR 261.4(b)(15), as amended February 11, 1999 (64 FR 6806).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

UU. State statutes and regulations (1) incorporate the third edition and updates to "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846), the Third edition (November 1986), as amended through Update IIIA (April 1998); and (2) include Method 1664, Revision A, N-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated N-Hexane Extractable Material (SGT-HEM; Non-polar Material) by Extraction and Gravimetry, as indicated in Revision Checklist 180.

Federal Authority: RCRA §§1006, 2002(a), 3001-3007, 3010, 3013-3018, and 7004; 40 CFR 260.11(a)(11) and 260.11(a)(16), as amended May 14, 1999 (64 FR 26315).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

II. DEFINITION OF SOLID WASTE

D. [OPTIONAL: This is a reduced requirement.] State statutes and regulations provide for a conditional exclusion from the definition of solid wastes for mineral processing secondary materials as indicated in Revision Checklists 167 D and 179.

Federal Authority: RCRA §3001; 40 CFR 261.2(c)(3), 261.2(c)(4) Table 1, 261.2(e)(1)(iii), 261.4(a)(16), and 261.4(a)(17) as amended May 26, 1998 (63 FR 28556) and May 11, 1999 (64 FR 25408).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

G. [OPTIONAL: This is a reduced requirement.] State statutes and regulations include revisions to the exclusion for certain oil-bearing hazardous secondary materials, as well as new exclusions for petrochemical recovered oil, and spent caustic solutions from petroleum refining processes, and the related revisions to the references to these exclusions as indicated in Revision Checklist 169.

Federal Authority: RCRA § 3001; 40 CFR 261.3(c)(2)(ii)(B), 261.4(a)(12), 261.4(a)(18) & (19), 261.6(a)(3)(iv)(C), 261.6(a)(3)(v), 261.31(a), and 266.100(b)(3), as amended August 6, 1998 (63 FR 42110).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

XIII. CORRECTIVE ACTION

H. [OPTIONAL: This is a reduced requirement.] State statutes and regulations contain provisions exempting cleanup only remediation waste management sites from 40 CFR 264.101 facility-wide corrective action as indicated in Revision Checklist 175.

Federal Authority: §§2002(a) and 3004; 40 CFR 264.1(j) intro, 264.101(d), and 270.230(e)(1) as amended November 30, 1998 (63 FR 65874).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

XV. STANDARDS FOR FACILITIES

W. State statutes and regulations provide for organic air emission standards for tanks, surface impoundments and containers and provide that air emission control requirements be added to the permit terms and provisions specified for miscellaneous units as specified in Revision Checklists 154, 163 and 177.

Federal Authority: RCRA § 3004(n); 40 CFR 60 Appendix A, 260, 261, 262, 264, 265, and 270 as amended December 6, 1994 (59 FR 62896); May 19, 1995 (60 FR 26828); September 29,

1995 (60 FR 50426); November 13, 1995 (60 FR 56952); February 9, 1996 (61 FR 4903); June 5, 1996 (61 FR 28508); November 25, 1996 (61 FR 59932); December 8, 1997 (62 FR 64636); and January 21, 1999 (64 FR 3382).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

AA. [OPTIONAL: This is a reduced requirement.] State statutes and regulations remove requirements to issue post-closure permits at each facility and allow post-closure care requirements to be imposed at interim status facilities using either permits or approved alternate authorities as indicated in Revision Checklist 174.

Federal Authority: RCRA §§ 2002(a), 3005 and 3006; 40 CFR 264.90(e), 265.110(c), 265.118(c)(4), 265.121 and 270.1(c) as amended October 22, 1998 (63 FR 56710).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

BB. [OPTIONAL: This is a reduced requirement.] State statutes and regulations give discretion to the State Director to impose requirements developed for corrective action in lieu of Subparts F, G, and H at certain regulated facilities, either permitted or interim status, that appear to have released to the environment, if nearby SWMUs also appear to have contributed to the same release as indicated in Revision Checklist 174.

Federal Authority: RCRA §§ 2002(a), 3004, 3005 and 3006; 40 CFR 264.90(f), 264.110(c), 264.112(b)&(c), 264.118(b)&(d), 264.140(d), 265.90(f), 265.110(d), 265.112(b)&(c), 265.118(c)(5)&(d)(1)(iii), and 265.140(d) as amended October 22, 1998 (63 FR 56710).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

CC. [OPTIONAL: This is a reduced requirement.] State statutes and regulations provide reduced 40 CFR Part 264, Subparts B, C, and D requirements for remediation waste management sites as indicated in Revision Checklist 175.

Federal Authority: RCRA §§ 2002(a), 3004, and 3007; 40 CFR 260.10, 264.1(j), and 264.73(b)(17) as amended November 30, 1998 (63 FR 65874).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

DD. [OPTIONAL: This is a reduced requirement.] State statutes and regulations contain design criteria as well as management and operating standards for the use of staging piles in storing remediation wastes, as indicated in Revision Checklist 175.

Federal Authority: RCRA §§ 2002(a), 3004, 3005, and 7004; 40 CFR 260.10, 264.554, 265.1(b), 268.2(c), and 268.50(g), as amended November 30, 1998 (63 FR 65874).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

EE. [OPTIONAL: This is a reduced requirement.] State statutes and regulations expand the use of Corrective Action Management Units (CAMUs) and Temporary Units to include implementing remedies at permitted facilities which are not subject to 40 CFR 264.101 as indicated in Revision Checklist 175.

Federal Authority: RCRA §§ 2002(a), 3004, and 3005; 40 CFR 260.10, 264.552(a) and 264.553(a), as amended November 30, 1998 (63 FR 65874).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

[Special Guidance Note for AG Entry Section XV (EE): Revision Checklist 121 added 40 CFR 264, Subpart S addressing Corrective Action Management Units (CAMUs) and Temporary Units. The rule addressed by that checklist limited the use of CAMUs and Temporary Units to remedies under 40 CFR 264.101 or RCRA §3008(h) (corrective action). The rule addressed by Revision Checklist 175 expands the availability for use of these units to permitted facilities that are not subject to 40 CFR 264.101. States may be authorized for Revision Checklist 175 without being authorized for Revision Checklist 121 if the authorization, relative to the use of CAMUs and Temporary Units, is limited to permitted facilities that are not subject to 40 CFR 264.101. This limitation needs to be addressed in Section XV (EE) of the Attorney General's Statement. At that entry, the State should cite its analogs to 40 CFR 260.10 ("disposal facility", "landfill", "miscellaneous unit", and "remediation waste"), 264.552(b)-(h), 264.553(b)-(g), 265.1(b), 268.2(b), 270.2 ("disposal facility"), and 270.42, Appendix I. These other provisions need to be cited by the State and reviewed by the Region to assure that all of the design and operating requirements for CAMUs and Temporary Units are included in the State's regulations

and authorized. In the “Remarks of the Attorney General”, the State’s Attorney General must include a statement that, relative to 40 CFR 264, Subpart S, the State is not seeking authorization for the corrective action uses of CAMUs and Temporary Units. If the State is also not authorized for Revision Checklist 17L (Corrective Action), the State should also limit the use, and in turn the authorization, of staging piles in a similar fashion.]

XVI. REQUIREMENTS FOR PERMITS

CC. [OPTIONAL: This is a reduced requirement.] State statutes and regulations require that owners and operators seeking a post-closure permit have to submit only that information required by 40 CFR 270.28 as indicated in Revision Checklist 174.

Federal Authority: RCRA §3006; 40 CFR 270.14 and 270.28 as amended October 22, 1998 (63 FR 56710).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

DD. [OPTIONAL: This is a reduced requirement.] State statutes and regulations provide for Remedial Action Plans (RAPs) as a special form of RCRA permit for treatment, storage or disposal of hazardous remediation waste at remediation waste management sites, as indicated in Revision Checklist 175.

Federal Authority: RCRA §§ 2002(a), 3005, 3007, and 7004; 40 CFR 270.2, 270.11(d), 270.42, 270.68, 270.73(a), and 270.79-270.230, as amended November 30, 1998 (63 FR 65874).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

XXI. LAND DISPOSAL RESTRICTIONS

U. State statutes and regulations provide for an extension of the national capacity variance for spent potliners from primary aluminum production (Hazardous Waste Number K088) so that K088 wastes do not have to be treated to meet LDR treatment standards until September 21, 1988, as indicated in Revision Checklists 155, 160, and 173.

Federal Authority: RCRA §3004(d)-(k), and (m), 40 CFR 268.39(c) as amended January 14, 1997 (62 FR 1992), July 14, 1997 (62 FR 37694), and September 24, 1998 (63 FR 51254).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

DD. State statutes and regulations include prohibitions and treatment standards for metal constituents in all hazardous wastes including the toxic characteristic wastes as indicated in Revision Checklists 167 A and 179.

Federal Authority: RCRA §§3004(g)(4) and (m); 40 CFR 268.2(i), 268.3(d), 268.34, 268.40(e)&(h), 268.40 table, and 268.48 as amended May 26, 1998 (63 FR 28556) and May 11, 1999 (64 FR 25408).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

FF. [OPTIONAL]: This is a reduced requirement.] State statutes and regulations include treatment standards for contaminated soils as indicated in Revision Checklists 167 B and 179.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 262.34(d)(4), 268.2(h), 268.2(k), 268.7(a)(1)-(6), 268.7(b)(1)-(3), 268.7(b)(4) intro & (b)(iv), 268.9(d)(2) intro, 268.9(d)(2)(i), 268.7(e), 268.44(h)(3)-(5), 268.49 as amended May 26, 1998 (63 FR 28556) and May 11, 1999 (64 FR 25408).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

GG. State statutes and regulations include corrections and clarifications to the land disposal restrictions as indicated in Revision Checklists 167 C and 179.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.4(a)(2)(ii)&(iii), 268.7(a)(7), 268.7(b)(3)(ii)/Table, 268.7(b)(4)(iv)&(v), 268.7(b)(5)&(6), 268.40/Table, 268.40(e), 268.42(a), 268.45(a) intro, 268.45(d)(3)&(4), 268.48, 268 Appendices VII & VIII as amended May 26, 1998 (63 FR 28556), June 8, 1998 (63 FR 31266) and May 11, 1999 (64 FR 25408).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

HH. State statutes and regulations include a waste-specific prohibition and treatment standards for K169-K172 wastes under the land disposal restriction program, as indicated in Revision Checklist 169.

Federal Authority: RCRA § 3004(g) and (m); 268.35 and 268.40, as amended August 6, 1998 (63 FR 42110).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

II. [OPTIONAL]: This is a reduced requirement.] State statutes and regulations stay the May 26, 1998 Phase IV Land Disposal Restriction treatment standards for metal-bearing hazardous wastes which exhibit the characteristic of toxicity, until EPA develops more consistent and comprehensive regulations for hazardous waste-derived fertilizers. In the interim, affected fertilizers are subject to the treatment standards that previously existed for toxic metals as specified on Revision Checklists 170 and 179.

Federal Authority: RCRA §§3001 and 3004(d), 40 CFR 268.40(i), as amended August 31, 1998 (63 FR 46332) and May 11, 1999 (64 FR 25408).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General.

JJ. State statutes and regulations provide revised treatment standards for seven carbamate wastes and extend indefinitely the temporary treatment standards; remove the treatment standard for one carbamate waste; delete certain carbamate wastes as underlying hazardous constituents; and extend for six months the temporary alternative treatment standards for the other 32 carbamate wastes as indicated in Revision Checklists 171 and 179.

Federal Authority: RCRA § 3004(d)-(k) and (m); 40 CFR 268.40(g)-(j), 268.40/Table, and 268.48(a)/Table as amended September 4, 1998 (63 FR 47410) and May 11, 1999 (64 FR 25408).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

KK. State statutes and regulations provide for an extension of the compliance date until November 26, 1998, for treatment standards for secondary lead slags that exhibit the toxicity characteristic for metals as indicated in Revision Checklist 172.

Federal Authority: RCRA § 3004(d)-(k) and (m); 40 CFR 268.34(b) as amended September 9, 1998 (63 FR 48124).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

LL. State statutes and regulations provide for interim replacement standards for spent potliners from primary aluminum reduction (EPA hazardous waste K088) as indicated in Revision Checklists 173 and 179.

Federal Authority: RCRA §3004(d)-(k), and (m); 40 CFR 268.40, as amended September 24, 1998 (63 FR 51254) and May 11, 1999 (64 FR 25408).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

XXIII. UNIVERSAL WASTES

A. [OPTIONAL: This is a reduced requirement. However, to be authorized for the universal waste provisions, a State must adopt this requirement (i.e., the General Provisions) and 1) at least one of the universal wastes at Subsections XXIII B-XXIII D, and/or 2) the universal waste petitions provision.] State statutes and regulations provide hazardous waste management standards for the collection and management of certain widely generated wastes determined "universal wastes" as indicated in Revision Checklists 142 A and 176 .

Federal Authority: RCRA §§2002, 3001, 3002, 3003, 3004, 3005, 3010, 3013, 3017, and 7004; 40 CFR 260.10, 261.5(c), 261.5(f)(3)(vi), 261.5(g)(3)(vi), 261.9 intro, 262.10(b), 262.11(d), 264.1(g)(11) intro, 265.1(c)(14) intro, 268.1(f) intro, 270.1(c)(2)(viii) intro, 273.1(a) intro, 273.1(b), 273.5, 273.6, 273.10, 273.11, 273.12, 273.14 intro, 273.15-273.31, 273.32(a)(1)&(2),

273.32(b), 273.34 intro, 273.35-273.70, as amended May 11, 1995 (60 FR 25492) and December 24, 1998 (63 FR 71225).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

B. [OPTIONAL: This is a reduced requirement. However, this requirement and the requirements at Subsection XXIII A are necessary for authorization of this requirement.] State statutes and regulations include hazardous waste batteries as a universal waste as indicated in Revision Checklists 142 B and 176.

Federal Authority: RCRA §§3001, 3002, 3003, 3004, 3005, 3010, 3013, 3017, and 7004; 40 CFR 260.10, 261.9(a), 264.1(g)(11)(i), 265.1(c)(14)(i), 266.80(a), 266.80(b), 268.1(f)(1), 270.1(c)(2)(viii)(A), 273.1(a)(1), 273.2, 273.6, 273.13(a), 273.14(a), 273.33(a), and 273.34(a), as amended May 11, 1995 (60 FR 25492) and December 24, 1998 (63 FR 71225).

Citation of Laws and Regulations; Date of Enactment and Adoption

Remarks of the Attorney General

Seal of Office

Signature

Name (Type or Print)

Title

Date